UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,856	02/22/2002	William S. Herz	156374-0010 (PA-1255)	1717

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EXAMINER
CHOJNACKI, MELLISSA M

ART UNIT	PAPER NUMBER
2164	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/080,856	HERZ, WILLIAM S.
	Examiner	Art Unit	
	Mellissa M. Chojnacki	2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 March 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,8,11-17,19-24,27,30-35 and 37-55* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,8,11-17,19-24,27,30-35 and 37-55* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 1-04)   **Office Action Summary**   Part of Paper No./Mail Date 20050519

DETAILED ACTION

Remarks

1.   In response to communications filed on March 7, 2005, claims 6-7, 9-10, 18, 25-

26, 28-29 and 36 are cancelled, claims 1, 2, 4-5, 8, 11-17, 19-24, 27, 30-35 are

amended, and new claims 38-55 are added per applicant's request. Therefore, claims

1-5,8,11-17,19-24,27,30-35 and 37-55 are presently pending in the application.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-5, 8, 12-17, 19-24, 27, 31-35 and 37-55 are rejected under 35

U.S.C. 103(a) as being unpatentable over Hoffert et al. (U.S. Patent No. 6,282,549) in

view of Stickler (U.S. Patent Application Publication No. 2003/0088573).

As to claim 1, Hoffert et al. teaches identifying the a media element, the media

element having a plurality of components (See column 7, lines 6-19, where

"components" is read on "content attributes");

determining a first component value for one or more of the plurality of the

components within the media element (See column 8, lines 7-15; paragraph 9, lines 6-

16);

identifying a subset of the plurality of components each having a component

value substantially similar to the first component value (See column 8, lines 7-15;

paragraph 9, lines 6-16);

Hoffert et al. does not teach a method of generating a data string representing

the contents of a media element, the method comprising: determining a set of

relationships among the subset of the plurality of components; and generating a data

string for the media element in response to the determined relationships.

Stickler teaches a method and apparatus for information delivery with archive

containing metadata in predetermined language and semantics (See abstract), in

which he teaches a method of generating a data string representing the contents of a

media element (See paragraph 0658), the method comprising: determining a set of

relationships among the subset of the plurality of components (See paragraph 0055;

paragraph 0713); and generating a data string for the media element in response to the

determined relationships (See paragraph 0658).

Therefore, it would have been obvious to a person having ordinary skill in the art

at the time of the invention was made to have modified Hoffert et al., to include a

method of generating a data string representing the contents of a media element, the

method comprising: determining a set of relationships among the subset of the plurality

of components; and generating a data string for the media element in response to the

determined relationships.

It would have been obvious to a person having ordinary skill in the art at the time

the invention was made to have modified Hoffert et al., by the teachings of Stickler

because a method of generating a data string representing the contents of a media element, the method comprising: determining a set of relationships among the subset of the plurality of components; and generating a data string for the media element in response to the determined relationships would provide a better way to mange and distribute data, particularly of high value media content (See Stickler, paragraph 0007).

As to claims 2 and 21, Hoffert et al., as modified, teaches wherein the media element is one of a video clip, static photograph, JPEG image, animation, audio clip, and text (See Hoffert et al., column 21, lines 54-58; also see Stickler, paragraph 0032; paragraph 0060; paragraphs 1099-1104).

As to claims 3 and 22, Hoffert et al., as modified, teaches wherein identifying the media element comprises selecting the media element and loading the media element into a memory of a computer system (See Stickler, paragraph 0293); wherein the instruction sequences to cause the processor to identify the media element include instruction sequences to select the media element and to load the media element into the memory (See Stickler, paragraph 0293).

As to claims 4 and 23, Hoffert et al. as modified, teaches wherein loading the media element into the memory comprises downloading the media element over a network connection (See Hoffert et al., column 6, lines 34-38; column 7, lines 20-22); wherein the media element is loaded into the memory by downloading the media

element over a network connection (See Hoffert et al., column 6, lines 34-38; column 7,

lines 20-22).

As to claims 5 and 24, Hoffert et al. as modified, teaches further comprising

determining if the media element can be compressed and, if so, compressing the media

element (See Hoffert et al., column 9, lines 56-57; column 16, lines 63-67); wherein the

memory further includes instruction sequences to cause the processor to determine if

the media element can be compressed and, if so, to compress the media element (See

Hoffert et al., column 9, lines 56-57; column 16, lines 63-67).

As to claims 8 and 27, Hoffert et al. as modified, teaches wherein the set of

relationships is based on relative distances among the subset of the plurality of

components (See column 5, lines 13-34).

As to claims 12 and 31, Hoffert et al. as modified, teaches further comprising

adjusting the tolerance such that the subset of the plurality of components includes a

minimum number of components (See Hoffert et al., column 8, lines 35-41; column 12,

lines 51-54; column 21, lines 8-26).

As to claims 13 and 32, Hoffert et al. as modified, teaches further comprising

assigning a label to the media element (See Hoffert et al., column 5, lines 11-21, where

"label" is read on "tag"; column 8, lines 35-48).

As to claims 14 and 33, Hoffert et al. as modified, teaches wherein the label is

used as a reference pointer to the data string (See Hoffert et al., column 5, lines 11-21,

where "label" is read on "tag"; column 8, lines 35-48).

As to claims 15 and 34, Hoffert et al. as modified, teaches wherein indexing the

media element comprises comparing the data string for the media element to the data

strings associated with the reference media elements (See Hoffert et al., column 5, lines

11-21; column 8, lines 35-48; column 21 lines 34-37).

As to calim16, Hoffert et al. as modified, teaches further comprising displaying a

result of the indexing to a user (See Hoffert et al., column 29, lines 28-36).

As to claims 17 and 35, Hoffert et al. as modified, teaches wherein the subset of

the plurality of the components is selected from a predetermined area of the media

element (See Hoffert et al., column 19, lines 56-63; column 21, lines 1-10).

As to claims 19 and 37, Hoffert et al. as modified, teaches further comprising

retrieving the media element using the assigned label (See Hoffert et al., column 5, lines

11-21, where "label" is read on "tag"; column 8, lines 35-48).

As to claim 20, Hoffert et al. teaches determine a first component value for one or more of the plurality for the components within a media element (See column 8, lines 7-15; paragraph 9, lines 6-16);

identifying a subset of the plurality of components, each having component values substantially similar to the first component value (See column 7, lines 6-19, where "components" is read on "content attributes"; column 8, lines 7-15; paragraph 9, lines 6-16).

Hoffert et al. does not teach a system for generating a data string representing the contents of a media element, the system comprising: determine a set of relationships among the subset of the plurality of components; and generate a data string for the media element, in response to the determined relationship.

Stickler teaches a method and apparatus for information delivery with archive containing metadata in predetermined language and semantics (See abstract), in which he teaches a system for generating a data string representing the contents of a media element (See paragraph 0658), the method comprising: determine a set of relationships among the subset of the plurality of components (See paragraph 0055; paragraph 0713); and generate a data string for the media element, in response to the determined relationship (See paragraph 0658).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Hoffert et al., to include a system for generating a data string representing the contents of a media element, the system comprising: determine a set of relationships among the subset of the plurality of

components; and generate a data string for the media element, in response to the determined relationship.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hoffert et al., by the teachings of Stickler because a system for generating a data string representing the contents of a media element, the system comprising: determine a set of relationships among the subset of the plurality of components; and generate a data string for the media element, in response to the determined relationship would provide a better way to mange and distribute data, particularly of high value media content (See Stickler, paragraph 0007).

As to claims 38 and 47, Hoffert et al. teaches further comprising determining a plurality of component values for the subset of the plurality of components (see Hoffert et al., column 7, lines 6-19, where "components" is read on "content attributes"; column 8, lines 35-41; column 12, lines 51-54; column 21, lines 8-26).

As to claims 39 and 48, Hoffert et al. teaches further comprising providing a tolerance level for the first component value (see Hoffert et al., column 8, lines 35-41; column 12, lines 51-54; column 21, lines 8-26).

As to claims 40 and 49, Hoffert et al. teaches wherein each component in the subset of the plurality of components has a component value within the tolerance level

of the first component value (See Hoffert et al., column 8, lines 35-41; column 12, lines 51-54; column 21, lines 8-26).

As to claims 41 and 50, Hoffert et al. teaches further comprising providing one or more reference media elements, each reference media element having an associated data string (See Stickler, paragraph 0055; paragraph 0658; paragraph 0713).

As to claims 42 and 51, Hoffert et al. teaches further comprising indexing the media element in response to the generated data string and one or more of the data strings associated with the one or more reference media elements (See Stickler, paragraph 0055; paragraph 0658; paragraph 0713).

As to claims 43 and 52, Hoffert et al. teaches wherein the components within the media element are one of pixels or shapes (See Hoffert et al., column 8, lines 35-41; column 12, lines 51-54; column 21, lines 8-26).

As to claims 44 and 53, Hoffert et al. teaches wherein the components are pixels, arld the first component value comprises a color value, a brightness value, a texture value, a fog value, or a chrominance value (See Hoffert et al., column 7, lines 6-19).

As to claims 45 and 54, Hoffert et al. teaches wherein the components are shapes, and the first component value comprises coordinates representing the location of the shapes within the media element (See Hoffert et al., column 7, lines 6-19).

As to claims 46 and 55, Hoffert et al. teaches further comprising displaying the retrieved media element (See Hoffert et al., column 2, lines 22-27).

4.   Claims 11 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffert et al. (U.S. Patent No. 6,282,549) in view of Stickler (U.S. Patent Application Publication No. 2003/0088573), as applied to claims 1-5, 8, 12-17, 19-24, 27, 31-35 and 37-55 above, and further in view of Delp, (U.S. Patent No. 6,026,411).

As to claims 11 and 30, Hoffert et al. as modified, still does not teach further comprising generating a histogram band for each of the plurality of component values for the one or more components within media element that the at least common pixel value represents; where the characterization process is further to, generate a histogram band for each of the at least one common pixel value of the media element, where the histogram bands are based on a percentage of a predetermined area of the media element that the at least common pixel value represents.

Delp teaches a method, apparatus, and computer program product for generating an image index and for internet searching and querying by image colors (See abstract), in which he teaches further comprising generating a histogram band for each of the at least one common pixel value of the media element, where the histogram

bands are based on a percentage of a predetermined area of the media element that

the at least common pixel value represents (See column 5, lines 30-41, lines 51-62;

column 8, lines 64-67; column 9, lines 1-3); where the characterization process is

further to, generate a histogram band for each of the at least one common pixel value of

the media element, where the histogram bands are based on a percentage of a

predetermined area of the media element that the at least common pixel value

represents (See column 5, lines 30-41, lines 51-62; column 8, lines 64-67; column 9,

lines 1-3).

Therefore, it would have been obvious to a person having ordinary skill in the art

at the time of the invention was made to have modified Hoffert et al. as modified, to

include further comprising generating a histogram band for each of the at least one

common pixel value of the media element, where the histogram bands are based on a

percentage of a predetermined area of the media element that the at least common

pixel value represents; where the characterization process is further to, generate a

histogram band for each of the at least one common pixel value of the media element,

where the histogram bands are based on a percentage of a predetermined area of the

media element that the at least common pixel value represents.

It would have been obvious to a person having ordinary skill in the art at the time

the invention was made to have modified Hoffert et al. as modified, by the teachings of

Delp because further comprising generating a histogram band for each of the at least

one common pixel value of the media element, where the histogram bands are based

on a percentage of a predetermined area of the media element that the at least

common pixel value represents; where the characterization process is further to, generate a histogram band for each of the at least one common pixel value of the media element, where the histogram bands are based on a percentage of a predetermined area of the media element that the at least common pixel value represents would provide an intelligent method, apparatus and computer program product for building an image index and for querying by image colors images from the internet (See Delp, column 1, lines 44-47).

Response to Arguments

5.   Applicant's arguments filed on March 7, 2005, with respect to the rejected claims in view of the cited references have been considered but are moot in view of new amendments made to the claims.

Conclusion

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Mellissa M. Chojnacki whose telephone number is (571)

272-4076. The examiner can normally be reached on 9:00am-5:30pm.

    If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Dov Popovici can be reached on (571) 272-4083. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

    Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

May 25, 2005

Art Unit: 2164

Mmc

CHARLES RONES
PRIMARY EXAMINER